

BEFORE THE  
COMMISSION ON STATE MANDATES  
STATE OF CALIFORNIA

RECONSIDERATION OF PRIOR DECISION  
ON:

Statutes 1975, Chapter 486 and Statutes 1984,  
Chapter 1459

Filed on December 2, 1985

By County of Fresno, Claimant

Directed by Statutes 2005, Chapter 72 (Assem.  
Bill No. 138, § 17, eff. July 19 2005).

Case No.: 05-RL-4204-02

*Mandate Reimbursement Process*

**NOTICE OF RECONSIDERATION,  
COMMENT PERIOD AND HEARING  
SCHEDULE**

HEARING DATE: April 27, 2006

TO: Interested Parties  
Department of Finance  
State Controller's Office  
Legislative Analyst  
Legislative Committees

Section 17 of Statutes 2005, chapter 72 (Assem. Bill No. (AB) 138) requires the Commission on State Mandates to "reconsider" its statement of decision on the Mandate Reimbursement Process test claim no later than June 30, 2006. The statute also specifies that any changes by the Commission to the original statement of decision shall be deemed effective on July 1, 2006.

**Administrative Record**

The administrative record for reconsideration consists of Assembly Bill 138, the original test claim and related filings and exhibits, staff analyses, decisions, parameters and guidelines, statewide cost estimate, parameters and guidelines amendments and minutes and transcripts of the Commission on State Mandates, and correspondence. The administrative record will be supplemented with all correspondence, public comments, and briefs filed pursuant to this notice of reconsideration.

The Commission will post this notice and the administrative record on its website ([www.csm.ca.gov/recon.html](http://www.csm.ca.gov/recon.html)) on or about November 22, 2005. When the website is updated, e-mail notices will be sent to those persons who have signed up for the electronic mailing list.

Commission members shall receive copies of the administrative record of the original test claim proceedings (including parameters and guidelines and statewide cost estimate), and all documents on reconsideration, including the draft staff analysis; comments and briefs filed by

interested parties, interested persons, and affected state agencies; and the final staff analysis and exhibits.

### **Mailing List**

This notice of reconsideration is being e-mailed to the original test claim mailing list and interested parties, affected state agencies, and interested persons who have been on the mailing list for parameters and guidelines amendments. On the reconsideration, there is no lead claimant and the Legislature is the requestor.

### **Public Comment**

**Request for Initial Comments/Briefing: December 27, 2005**

**Rebuttals: January 26, 2006**

Section 17 of AB 138 directs the Commission to “reconsider its test claim statement of decision in CSM-4202<sup>1</sup> on the Mandate Reimbursement Program to determine whether Chapter 486 of the Statutes of 1975, and Chapter 1459 of the Statutes of 1984 constitute a reimbursable mandate under Section 6 of Article XIII B of the California Constitution in light of federal and state statutes enacted and federal and state court decisions rendered since these statutes were enacted.” Commission staff requests the filing of simultaneous opening briefs and rebuttal comments on each of the following issues:

- In light of federal and state statutes enacted and federal and state court decisions rendered since the subject statutes were enacted, is there a new program or higher level of service imposed on local governments within the meaning of article XIII B, section 6 of the California Constitution, and if so, are there costs mandated by the state pursuant to Government Code section 17514 and Government Code section 17556?
- Have funds been appropriated for this program (e.g., state budget) or are there any other sources of funding available? If so, what is the source?

Any interested party, affected state agency, or interested person may comment, submit briefs, or correspond with the Commission on this request for initial briefing and rebuttal comments. An original and one copy, or an original hard copy and an Adobe Acrobat PDF file, shall be submitted to the Commission. PDF files should be e-mailed to: [csminfo@csm.ca.gov](mailto:csminfo@csm.ca.gov). The comments will be posted on the Commission’s website. This will satisfy all the service requirements under California Code of Regulations, title 2, section 1181.2, subdivision (d).<sup>2</sup>

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<sup>1</sup> CSM-4202 is a test claim filed on Regional Water Quality Control Board Order 81-89 and Resolution 82-10, titled “Individual Sewage Disposal; CSM-4204 is a test claim filed on Statutes 1975, Chapter 486 and Statutes 1984, Chapter 1459, titled Mandate Reimbursement Process.

<sup>2</sup> The Commission’s regulations at California Code of Regulations, title 2, section 1181 et seq were amended, effective September 6, 2005.

All filings must comply with the following requirements:

- Assertions or representations of fact must be supported by documentary evidence and must be authenticated by declarations under penalty of perjury signed by persons who are authorized and competent to do so and must be based upon the declarant's personal knowledge or information or belief.
- If the comments or briefs cite to federal or state laws, regulations, executive orders, or court decisions, copies of those documents must be included in the filing. Court decisions that involve the Board of Control or the Commission on State Mandates are exempt from this requirement.

### **Draft Staff Analysis and Comments**

On or about February 23, 2006, the draft staff analysis and any supporting documentation will be posted to the Commission's website. All parties and interested parties will be notified of the website posting.

Interested parties, affected state agencies, and interested persons are invited to file comments with the Commission on the draft staff analysis by March 15, 2006.

An original and one copy, or an original and an Adobe Acrobat PDF file, shall be submitted to the Commission. PDF files should be e-mailed to: [csminfo@csm.ca.gov](mailto:csminfo@csm.ca.gov). The comments will be posted on the Commission's website. This will satisfy all the service requirements under California Code of Regulations, title 2, section 1181.2, subdivision (d).

As with the filings above, comments on the draft staff analysis must comply with the following requirements:

- Assertions or representations of fact must be supported by documentary evidence and must be authenticated by declarations under penalty of perjury signed by persons who are authorized and competent to do so and must be based upon the declarant's personal knowledge or information or belief.
- If the comments cite to federal or state laws, regulations, executive orders, or court decisions, copies of those documents must be included in the filing. Court decisions that involve the Board of Control or the Commission on State Mandates are exempt from this requirement.

### **Commission Hearing**

The Commission will hear and determine this reconsideration and may adopt the proposed revised statement of decision on April 27, 2006. The final staff analysis and proposed revised statement of decision on the reconsideration will be issued and posted to the Commission's website on or about April 13, 2006. If a decision is not adopted, the proposed revised statement of decision will be set for adoption at the May 25, 2006 hearing.

The hearing procedures in article 7 of the Commission's regulations in effect at the time of the hearing will apply to this reconsideration. Since this reconsideration was directed by statute and not requested pursuant to Government Code section 17559, subdivision (a), the hearing procedures in section 1188.4 do not apply in this case. (Cal. Code of Regs., tit. 2, § 1188.4, subd. (j), eff. Sept. 6, 2005.)

Representatives of interested parties, affected state agencies and the Legislature, and interested persons will be asked to notify the Commission staff if they wish to testify. Time limits may be imposed if necessary.

**Parameters and Guidelines**

The Commission, if necessary, shall revise its parameters and guidelines (CSM-4485) to be consistent with this reconsideration. Any party may develop a reasonable reimbursement methodology pursuant to Government Code section 17518.5 for inclusion in the parameters and guidelines. A prehearing conference may be scheduled if requested by any party. See sections 1183.04, 1183.13, and 1187.4 of the Commission's regulations.

If you have any questions regarding this matter, please contact Assistant Executive Director, Nancy Patton, at (916) 323-8217.

Dated: November 22, 2005

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PAULA HIGASHI, Executive Director